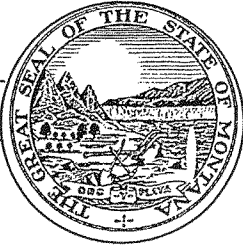


MONTANA PUBLIC DEFENDER COMMISSION



STEVE BULLOCK  
GOVERNOR

RICHARD E. "FRITZ" GILLESPIE  
CHAIR, PDC

STATE OF MONTANA

**Written Testimony on the OPD Budget**

The agency came into this session with a threefold strategy:

- (1) Get proposed legislation passed that reduces OPD caseloads without compromising the level of service to the clients;
- (2) Get a pay plan funded that equalizes OPD employees' pay with comparable positions so that pay is not a reason for the excessive turnover the agency is experiencing; and
- (3) Get funding for more FTEs to help reduce clearly excessive attorney caseloads, relieve stress on all of the workforce, and improve performance of tasks already identified as not adequate.

Budget planning for the agency's needs began right after the last session ended and the PDC has been working on specific decision packages since last March.

While doing those things I was writing a lengthy response to the American University and ACLU reports and recommendations that was adopted by the PDC at its June meeting and was distributed to the members and staff of the LJIC and the interim Finance Committees.

In August the PDC approved decision packages that would add 77 FTEs to the current staffing at a projected increased annual cost of over \$12,000,000 when findings and analysis of the condition of the agency in the response was incorporated into the budget planning process. Those are shocking numbers but they emphasize what the PDC is reminded at every meeting and what many in the committee rooms and the halls of this building know and are to some extent acknowledging, *i.e.*, this agency has been underfunded and understaffed from its inception; it was crippled before it took its first step!

The success of our strategy lies with you. Our legislative proposals have been somewhat successful but SB53 that would have helped the most in reducing caseloads died in House Judiciary after leaving the Senate 50-0 and 47-0. Whatever comes out of the 5/5 plan will only make the disparity in OPD pay greater because of the already wide gap in salaries differences. Denying additional FTEs to meet the increasing caseloads will only compound the difficulty the agency now has in providing effective assistance of counsel required by our Constitutions.

The only alternative the agency has if our strategy fails is for the agency to tell the courts that it cannot take more cases because it cannot perform its constitutional mandate to provide effective assistance of counsel due to the inadequacy of its resources. The result will be to slow the criminal justice process. Cases will be dismissed for lack of a speedy trial. Convictions may be reversed on appeal that will only compound the problems.

  
Richard E. Gillespie  
Chair, PDC